

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

11 SYDRIAN LOFTON,) Case No.: C 12-06312 PSG
12 v. Plaintiff,) **ORDER DENYING DEFENDANTS'**
13 CHARLES A. WASSERMAN, JR., a married) **APPLICATION FOR STAY AND**
14 man as his sole and separate property; ORI) **EARLY EVALUATION**
15 DELI, a California limited liability company;) **CONFERENCE PURSUANT TO**
16 PARJIT KAUR KHAIRA dba BONFARE) **CIVIL CODE SECTION 55.54**
17 MARKETS, INC. aka BONFARE MARKET 9;) **(Re: Docket No. 16, 17, 18)**
18 KHAIRA INTERNATIONAL, INC., a)
California corporation,)
Defendants.)

19 Plaintiff Sydrian Lofton ("Lofton") has asserted violations of the Americans with
20 Disabilities Act against Defendants Charles A. Wasserman, Jr., Ori Deli, and Parjit Kaur Khaira
21 (collectively, "Defendants"). On March 8, 2013, Defendants filed an application to stay the case
22 and for an early evaluation conference pursuant to California Civil Code section 55.54. Lofton
23 opposes. Having considered the papers, the court DENIES the applications.

24 California's Construction-Related Accessibility Standards Compliance Act provides that "a
25 qualified defendant... may file a request for a court stay and early evaluation conference."¹ This
26 statute applies to defendants of a "construction-related accessibility claim," or "any civil claim in a
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28 ¹ Cal. Civ. Code § 55.54(b)(1).

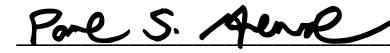
1 civil action with respect to a place of public accommodation.”² If such a defendant meets certain
 2 additional requirements, he is entitled to a court stay and a mandatory early evaluation conference.³
 3 An ADA claim qualifies as a “construction-related accessibility claim.”⁴

4 There are several reasons why this statute does not apply. First, the statute may be
 5 preempted because it creates “additional procedural hurdles” not present in the ADA.⁵ Second, the
 6 statute is a state procedural law. Generally, federal courts need not adopt state procedural law,
 7 even in connection with state law claims.⁶ When, as here, the plaintiff has brought only federal
 8 ADA claims,⁷ the court sees no reason to adopt California procedural law. As Lofton points out,
 9 the Northern District of California has its own procedure to impose a stay on discovery and to
 10 require the parties to engage in early resolution and mediation.

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12 **IT IS SO ORDERED.**

13 Dated: 4/18/13



14 PAUL S. GREWAL
 United States Magistrate Judge

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 21 ² *O'Campo v. Chico Mall, LP*, 758 F. Supp. 2d 976, 983 (E.D. Cal. 2010) (quoting Cal. Civ. Code §
 55.52(a)(1)).

22 ³ *See id.*

23 ⁴ Cal. Civ. Code § 55.52(a)(6).

24 ⁵ *O'Campo*, 758 F. Supp. 2d at 983 (quoting *Hubbard v. SoBreck LLC*, 554 F.3d 742 (9th Cir.
 25 2009)).

26 ⁶ *See, generally, Erie R. Co. v. Tompkins*, 304 U.S. 64, 92 (1938) (“no one doubts federal power
 27 over procedure”).

28 ⁷ *See* Docket No. 1.